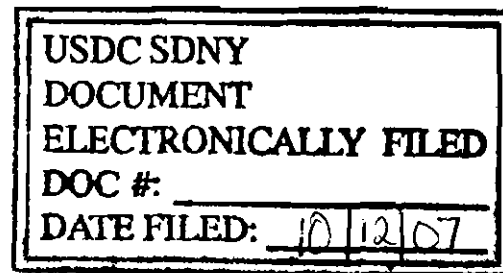


Neil Rosolinsky (NR 1869)
REED SMITH LLP
599 Lexington Avenue, 28th Floor
New York, New York 10022
(212) 521-5400

Attorneys for Defendant
Mellon Financial Corporation

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X	:	
RAYMOND VAN COTT	:	07 Civ. 5578 (MGC) (RLE)
	:	
Plaintiff,	:	<u>ECF FILED</u>
	:	
- against -	:	
	:	
MELLON FINANCIAL CORPORATION,	:	STIPULATION & ORDER
	:	
Defendant.	:	
-----X	:	

NOW COME the attorneys for Plaintiff and Defendant, on behalf of their respective clients, and do hereby stipulate as follows to resolve their respective motions currently pending before the Court:

- 1) Plaintiff withdraws his Motion to Remand.
- 2) Defendant withdraws its Motion to Dismiss.
- 3) Plaintiff dismisses the Defendant without prejudice.
- 4) Plaintiff's Motion to Amend the complaint and Join the Mellon Financial Corporation Displacement Program ("Displacement Program") as a party is granted, as set forth below.
- 5) Within twenty (20) days of the execution of this stipulation, Plaintiff will file and serve by overnight mail an Amended Complaint under the above civil action number asserting a claim for benefits under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, and name only the Displacement Program as a defendant.
- 6) The Displacement Program will have 20 days from service of the Amended Complaint to Answer or otherwise respond. The Displacement Program agrees that in

Answering or otherwise responding to the Amended Complaint it will not raise subject matter jurisdiction, insufficient service of process, forum non conveniens, venue or any other defense to this action's being retained, heard and adjudicated in the Federal District Court for the Southern District of New York.

7) Defendant agrees that any judgment against the Displacement Program will be satisfied in accordance with the terms of the Confidential Special Retention Package dated December 3, 2004 and presented to Mr. Van Cott ("Package") and the Displacement Program by Defendant's successor in interest, The Bank of New York Mellon Corporation ("Bank of New York Mellon") or any successor in interest of Bank of New York Mellon.

8) Plaintiff understands and agrees that, even if a judgment is obtained against the Displacement Program, the conditions to receiving any money or benefits imposed by the Package and Displacement Program (such as, for example, the execution of a release of claims) shall still apply.

9) Reed Smith LLP, attorneys for Defendant, acknowledge that it also represents the Displacement Program and Defendant's successor in interest Bank of New York Mellon, and is fully authorized to enter into this Stipulation on their behalf as well as to accept service of the Amended Complaint by overnight mail on behalf of the Displacement Program.

Respectfully submitted,

HIMMEL & BERNSTEIN, LLP

By: 

Tracey S. Bernstein
928 Broadway
New York, New York 10010
(212) 631-0200

Attorneys for Plaintiff

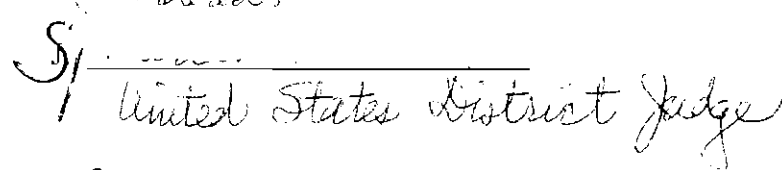
REED SMITH LLP

By: 

Neil Rosolinsky
599 Lexington Avenue
New York, New York 10022
(212) 521-5435

Attorneys for Defendant
and the Displacement Program

Dated: October 11, 2007

So ordered:

United States District Judge